

Part 6

Judicial Review

59-1-601 District court jurisdiction.

- (1) In addition to the jurisdiction granted in Section 63G-4-402, beginning July 1, 1994, the district court shall have jurisdiction to review by trial de novo all decisions issued by the commission after that date resulting from formal adjudicative proceedings.
- (2) As used in this section, "trial de novo" means an original, independent proceeding, and does not mean a trial de novo on the record.
- (3)
 - (a) In any appeal to the district court pursuant to this section taken after January 1, 1997, the commission shall certify a record of its proceedings to the district court.
 - (b) This Subsection (3) supercedes Section 63G-4-403 pertaining to judicial review of formal adjudicative proceedings.

Amended by Chapter 382, 2008 General Session

59-1-602 Right to appeal -- Venue -- County as party in interest.

- (1)
 - (a) Any aggrieved party appearing before the commission or county whose tax revenues are affected by the decision may at that party's option petition for judicial review in the district court pursuant to this section, or in the Supreme Court or the Court of Appeals pursuant to Section 59-1-610.
 - (b) Judicial review of formal or informal adjudicative proceedings in the district is in the district court located in the county of residence or principal place of business of the affected taxpayer or, in the case of a taxpayer whose taxes are assessed on a statewide basis, to the Third Judicial District Court in and for Salt Lake County.
 - (c) Notwithstanding Section 63G-4-402, a petition for review made to the district court under this section shall conform to the Utah Rules of Appellate Procedure.
- (2) A county whose tax revenues are affected by the decision being reviewed shall be allowed to be a party in interest in the proceeding before the court.

Amended by Chapter 382, 2008 General Session

59-1-604 Burden of proof -- Decision of court.

In proceedings of the district court under this part and on appeal therefrom, a preponderance of the evidence shall suffice to sustain the burden of proof. The burden of proof shall fall upon the parties seeking affirmative relief and the burden of going forward with the evidence shall shift as in other civil litigation. The district court shall render its decision in writing, including therein a concise statement of the facts found by the court and the conclusions of law reached by the court. The court may affirm, reverse, modify, or remand any order of the commission, and shall grant other relief, invoke such other remedies, and issue such orders, in accordance with its decision, as appropriate.

Amended by Chapter 326, 1998 General Session

59-1-607 Decision of district court as final determination.

Unless stayed, the decision of the district court shall be binding upon all parties until changed upon appeal. If no appeal is taken, the decision of the court shall constitute a final determination of the matter.

Amended by Chapter 127, 1992 General Session

59-1-608 Appeal.

The exclusive remedy for review of a decision or order of the district court entered under this part shall be by appeal. Any party to the action has the right to an appeal.

Amended by Chapter 127, 1992 General Session

59-1-610 Standard of review of appellate court.

- (1) When reviewing formal adjudicative proceedings commenced before the commission, the Court of Appeals or Supreme Court shall:
 - (a) grant the commission deference concerning its written findings of fact, applying a substantial evidence standard on review; and
 - (b) grant the commission no deference concerning its conclusions of law, applying a correction of error standard, unless there is an explicit grant of discretion contained in a statute at issue before the appellate court.
- (2) This section supercedes Section 63G-4-403 pertaining to judicial review of formal adjudicative proceedings.

Amended by Chapter 382, 2008 General Session

59-1-611 Requirement to post security -- Waiver -- Payment of tax, interest, or penalties after judicial decision -- Interest.

- (1) As used in this section, "post security" means:
 - (a) posting with the commission, for the full or a partial amount of the deficiency as determined by the commission:
 - (i) a letter of credit;
 - (ii) a bond; or
 - (iii) other similar financial instrument acceptable to the commission; or
 - (b) as determined by the commission, depositing with the commission:
 - (i) the full amount of the deficiency; or
 - (ii) a partial amount of the deficiency.
- (2) Except as provided in Subsection (3), a taxpayer that seeks judicial review of a final commission redetermination of a deficiency shall post security with the commission.
- (3) The commission shall waive the requirements of Subsection (2) if a taxpayer establishes:
 - (a) that the taxpayer has sufficient financial resources to pay the deficiency if the deficiency is upheld in a final unappealable judgment or order by a court of competent jurisdiction; or
 - (b) as determined by the commission, that collection of the deficiency that is the subject of the appeal is not jeopardized by waiving the requirements of Subsection (2).
- (4)
 - (a) The commission may not unreasonably deny a waiver described in Subsection (3).
 - (b) A taxpayer may seek judicial review of the commission's decision to deny a waiver under Subsection (3) by the court reviewing the redetermination of the deficiency.

- (5) If a taxpayer fails to comply with the requirements of Subsection (2), the reviewing court may, in its discretion, dismiss the taxpayer's appeal of the redetermination of the deficiency.
- (6) If the commission grants a waiver under Subsection (3), the taxpayer shall pay any tax, interest, or penalties:
 - (a) ordered by a court of competent jurisdiction; and
 - (b) within a 30-day period beginning on the day on which the order described in Subsection (6)(a) becomes final.
- (7) If a taxpayer posts security with the commission, or the commission grants a waiver in accordance with this section, interest shall accrue on the unpaid taxes that are the subject of the deficiency at the rate and in the manner provided in Section 59-1-402.

Amended by Chapter 224, 2013 General Session